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9 EILEEN BUCKLEY

10  
11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA-SAN FRANCISCO DIVISION

14 EILEEN BUCKLEY,  
15  
16 Plaintiff,

17 vs.

18 MBH CONSULTING, INC. DEFERRED  
19 COMPENSATION TRUST; MBH  
20 CONSULTING, INC.; MBH SOLUTIONS,  
21 INC.; and PETER McCREE,  
22  
23 Defendants.

Case No.: C 05-03282 SC

**PLAINTIFF'S STATUS REPORT and**  
**~~[PROPOSED]~~ ORDER TO CONTINUE**  
**CASE MANAGEMENT**  
**CONFERENCE**

Date: December 9, 2005  
Time: 10:00 a.m.  
Dept.: Courtroom 1, 17<sup>th</sup> Floor  
Honorable Samuel Conti

CASE FILED: 8/11/05  
TRIAL DATE: N/A

24 For purposes of the Initial Case Management Conference currently on calendar for  
25 December 9, 2005, counsel for Plaintiff Eileen Buckley submits the following Status Report and  
26 request for postponement.

27 On August 11, 2005, Plaintiff Eileen Buckley ("Plaintiff") filed the current Complaint  
28 for Declaratory, Injunctive and Monetary Relief against her former employer (MBH Consulting,  
Inc. or MBH Solutions, Inc.), the trust that managed her Supplemental Employee Retirement

Plan (MBH Consulting, Inc. Deferred Compensation Trust; “the Plan”), and the former employer’s chief executive and Plan trustee (Peter McCree) (collectively, “Defendants”). In essence, the Complaint states Ms. Buckley’s claims under the federal Employee Retirement Income Security Act of 1974 (“ERISA”) and under California state law for Defendants’ failure to pay benefits under and properly to administer the retirement Plan, for breach of employment contract, for misrepresentation, and for breach of fiduciary duty. All Defendants currently reside in New Jersey but have had relevant contact with San Francisco.

Following further unsuccessful settlement discussions, Plaintiff’s counsel sent the Complaint and related documents to Defendants’ corporate counsel in New Jersey on September 12, 2005, along with forms for Notice of Lawsuit and Request for Waiver of Service of Summons, as well as Waiver of Service of Summons. After still more settlement efforts, Defendants’ corporate counsel advised that neither he nor Defendants would accept service of the Complaint and related documents by Waiver of Service of Summons, so Plaintiff accomplished personal service on all Defendants on November 7, 2005 (see, Proofs of Service filed November 14, 2005).

Following personal service on Defendants of the Complaint and related documents, settlement efforts have continued through Defendants’ corporate attorney in New Jersey. So as to avoid the expenses of retaining local counsel while settlement progress appeared to occur, Plaintiff has not required Defendants to file any responsive pleading and Defendants have not yet formally appeared in this action. Plaintiff’s counsel anticipates that initial settlement discussions will either succeed or fail within the next two weeks.

Under these circumstances, and especially given the absence of Defendants’ retaining local counsel and filing responsive pleadings, Plaintiff suggests that conducting an Initial Case Management Conference on December 9, 2005 would be premature. Plaintiff therefore requests

1 continuance of the Initial Case Management Conference until March 10, 2006.

2 DATED: December 1, 2005.

LYNCH, GILARDI & GRUMMER

3  
4 By \_\_\_\_\_

Wallace M. Tice, Esq.

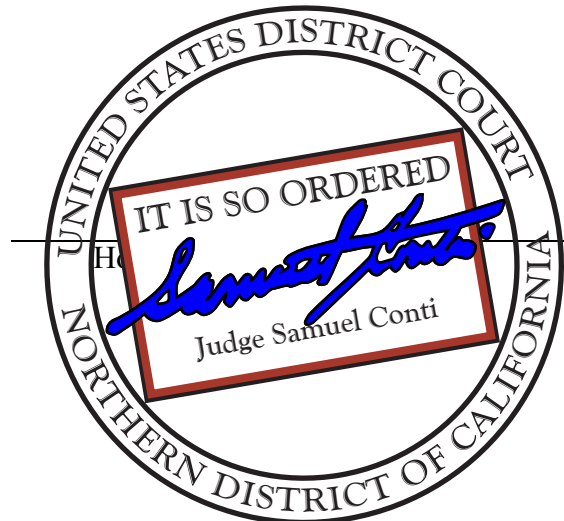
Attorneys for Plaintiff, EILEEN BUCKLEY

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7  
8 **ORDER**

9 In consideration of Plaintiff's Status Report and the overall status of this matter, IT IS  
10 HEREBY ORDERED that the Initial Case Management Conference is continued from  
11 December 9, 2005 until Friday, March 10, 2006 at 10:00 a.m. in Courtroom 1. In advance of the  
12 Initial Case Management Conference on March 10, 2006, the parties shall file a Joint Case  
13 Management Statement and otherwise comply with Federal Rule of Civil Procedure 26 and  
14 Local Rules 16-3 to 16-10. The Plaintiff shall advise Defendants that the Court likely will  
15 calendar a Trial date and schedule other appropriate events at the Initial Case Management  
16 Conference.  
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18 DATED: December 1, 2005.

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